

RECEIVED
GENERAL FAX CENTER

Docket No.: 30003038-2US (1509-220)

JUN 30 2006

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

BROWN, RICHARD et al.

Confirmation No. 8293

U.S. Patent Application No. 09/955,222

Group Art Unit: 2151

Filed: September 19, 2001

Examiner: Khanh Dinh

For: CREDENTIAL TRANSFER METHOD AND APPARATUS INCLUDING SENDER -
DERIVED INDEX (Amended)

BEST AVAILABLE COPY

PRE APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is submitted that the Examiner has erred in properly rejecting the claims pending before the PTO. Indeed, in the Advisory Action, the Examiner has rescinded the position rigorously and inflexibly maintained in both the first and final office actions and has attempted to work his way out of a very bad situation by trying to sell the notion that his improper and unfounded reliance on the primary reference to disclose the claimed "credential index" was a "typo." This does not alleviate the problem that the primary reference fails to support the rejection as purported in both office actions, and that this failure cannot be circumnavigated as a "typo."

The Examiner has, in fact, admitted that the rejection advanced in the first and final office action was incorrectly founded and has presented a new grounds of rejection in the Advisory Action. This is improper.

The new position - advanced in the Advisory Action is that Spies discloses a credential binding server #28 in Fig. 3. This highly improperly timed reliance and the resulting theory that is advanced by the Examiner, also fails to pass muster under § 103 wherein the hypothetical person of ordinary skill would have to, without any disclosure indicating the same, come to the conclusion that Spies discloses an "index." Further, the manner in which it is used as per the claimed requirements, and in fact reveals an improper quasi § 102 approach to the rejection as evidenced by the position that "Spies meets the Applicant claim as credential index."

Application No.: 09/955,222

Docket No.: 30003038-2US

BEST AVAILABLE COPY

Spies discloses at column 6, line 44-59, that:

During the registration process (FIG. 1), the computing units 24(a)-24(c) at the participants 22(a)-22(c) are each programmed to generate and send a registration packet over the communication system (as represented by communication paths 30(a)-30(c)) to the credential binding server 28 at the trusted credential authority 26. The credential binding server 28 is programmed to produce unique credentials for each participant based upon their registration packets and to send the credentials 32(a)-32(c) back over the communication system (as represented by communication paths 34(a)-34(c)) to the multiple computing units 24(a)-24(c). These credentials are digitally signed by the trusted credential authority and will be used to identify and authenticate other participants during the commerce transaction. It is noted that the registration process requires interaction between each participant and the trusted credential authority. (Emphasis added)

Note that with the Spies arrangement, the credentials *per se* are sent as different from an index of credentials wherein the credentials are not disclosed *per se*. Indeed, we have a position wherein the Examiner is merely citing structure which is presumed (given hindsight of the claimed subject matter) to perform the claimed steps. Neither disclosure nor suggestion of the steps can be distilled from the art of record.

The - you are right both my rejections were untenable – but here's another that makes it ok - situation is simply unacceptable under the instant set of circumstances.

A further problem is that column 12, lines 6-16 of Schiedt et al. is relied upon to "also disclose about the credential index." However, this section of Schiedt discloses:

If MLA is not used, the set of credentials available to a member are all credentials that appear in the member's profile, that is, *V.c .E.P.*

In general, a credential is represented by an 5-tuple, $(cid, d_c, x_c, y_c, \lambda_c)$, where cid is the credential index, d_c is the category, x_c is the private key for the credential, y_c is the public key for the credential and λ_c is the MLA level defined for the credential by the domain authority. Note that within a profile, the private key can be missing for some credentials. This implies encrypt-only (or write-only) permission for that credential.

Application No.: 09/955,222

Docket No.: 30003038-2US

BEST AVAILABLE COPY

This passage mentions credential index, but contains nothing more. How is the hypothetical person of ordinary skill to be led to the claimed subject matter given the disclosure that a credential is a 5-tuple which includes an index. Indeed, the Examiner acknowledges that this section of this reference merely contains "mention" of a credential index. Again it is pointed out that the rejection is not under § 102, and most certainly cannot be a cobbled together collection of disclosures which have been gathered together with full hindsight knowledge of the claims under the purview of § 103.

The Examiner should be held accountable and compelled to at least provide one more action to properly make his case, or more appropriately, the claims be allowed and the application be passed to issue inasmuch as the "new grounds of rejection" are as untenable as those admitted to be incorrectly formulated.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025, and please credit any excess fees to such deposit account.

Respectfully submitted,

Richard BROWN et al.



Allan M. Lowe
Registration No. 19,641

Keith J. Townsend
Registration No. 40,358

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400
Telephone: 703-684-1111
Facsimile: 970-898-0640
Date: June 30, 2006

AML/dll